following effect.—"In the case of a business of which all the operations are not carried out in Cochin, the profits and gains of the business deemed under this section to accrue or arise in Cochin shall be only such profits and gains as are reasonably attributable to that part of the operations carried out in Cochin".

Now certain difficulties are felt in the matter of assessment of the business concerns which do business in more places than one. Now suppose a certain business concern has branches in Cochin, British India and Travancore. It will have to pay tax in all the three places, on account of the fact that the business is being transacted in all the three places. Such business concerns will be subjected to double taxation, and it works hardship in certain cases. It is therefore considered necessary to provide that in the case of businesses of which all the operations are not carried out in Cochin, the profits and gains assessable in Cochin shall be only such of the profits as are reasonably attributable to the operations carried on here. A corresponding provision also exists in the British Indian Act. The profits that accrue on account of the operations in a a particular territorial unit can alone be taxed. It is necessary that commercial laws should be uniform as far as possible with those prevailing in British India and Travancore and nobody should be subjected to double taxation for one and the same income in more places than one. It is to obviate this hardship that this provision has been introduced.

Secretary to the Legislative Council: The title of the Bill is "The Cochin Income-tax Act (Amendment) Bill."

Mr. M. Sivarama Menon *(Advocate-General):* I request the President may be pleased to suspend Standing Order No. 32.

Mr. President: The Standing Order is suspended.

Mr. M. Sivarama Menon *(Advocate-General):* Sir, I move that the Bill be taken into consideration.

Mr. C. J. Mathew *(Joint Secretary to Government):* I second it.

Clauses 2 to 7 put and carried

Clause 1 put and carried

Preamble put and carried

Mr. M. Sivarama Menon *(Advocate-General):* I move that the Bill be taken up and passed tomorrow.

Mr. C. J. Mathew *(Joint Secretary to Government):* I second it.

Motion put and carried

3. The Cochin Excess Profits Tax Act (Amendment) Bill

Mr. M. Sivarama Menon *(Advocate-General):* Sir, I move that the Cochin Excess Profits Tax Act (Amendment) Bill be read in Council.

Mr. C. J. Mathew *(Joint Secretary to Government):* I second it.

Mr. M. Sivarama Menon *(Advocate-General):* Sir, consistently with the amendment that we are making to the Cochin Income-tax Act, an amendment has to be made to the Excess Profits Tax Act also. There is no special feature on which I have to offer comments.

Secretary to the Legislative Council: The title of the Bill is the Cochin Excess Profits Tax Act (Amendment) Bill.

Mr. M. Sivarama Menon *(Advocate-General):* I request that the President may be pleased to suspend Standing Order No. 32.

Mr. President: Standing Order No. 32 is suspended.

Mr. M. Sivarama Menon *(Advocate-General):* Sir, I move that the Bill be taken up for consideration.

Mr. C. J. Mathew *(Joint Secretary to Government):* I second it.

Clauses 2 to 4 put and carried

Clause 1 put and carried

Preamble put and carried

Mr. M. Sivarama Menon *(Advocate-General):* Sir, I move that the Bill be taken up and passed tomorrow.

Mr. C. J. Mathew *(Joint Secretary to Government):* I second it.

Motion put and carried

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It is hereby enacted as follows.—

1. (1) This Act may be called the Cochin Income-tax (Amendment) Act.....of 1118.

(2) It shall be deemed to have come into force on the 1st day of Chingam 1118.

2. In sub-section (5) of section 3 of the Cochin Income-tax Act, VI of 1117, hereinafter referred to as the Act, between the words "the Indian Companies Act, 1913" and "as made applicable to Cochin" the words "or the said Act" shall be inserted.

3. In clause (*vii*) of sub-section (1) of section 12 of the Act, for the words "the net annual value after deducting the foregoing allowances" in both the places where they occur, the words "the annual value" shall be substituted.

4. In sub-section (5) of section 38 of the Act, for the words "a Commissioner" the words "the Commissioner" shall be substituted.

5. In the proviso to sub-section (2) of section 44 of the Act, for the words and figures "section 42 or section 109" the words and figures "section 42, section 43 or section 109" shall be substituted.

6. In section 52 of the Act, for sub-section (3), the following shall be substituted, namely.—

"(3) In the case of a business of which all the operations are not carried out in Cochin, the profits and gains of the business deemed under this section to accrue or arise in Cochin shall be only such profits and gains as are reasonably attributable to that part of the operations carried out in Cochin".

7. In section 107 of the Act, after sub-section (4), the following sub-section shall be added, namely.—

"(5) The provisions of sub-section (1) and sub-section (2) shall not apply and shall be deemed never at any time to have applied to any assessee where by any direction given or any distribution or allocation of work made by the Government under sub-section (2) or by the Commissioner under sub-section (4) of section 8 a particular Income-tax Officer has been charged with the functions of assessing that assessee".

Statement of Objects and Reasons

According to the existing provisions of the Income-tax Act, the profits or gains from the sale in Cochin of any merchandise exported to Cochin from outside shall be deemed to have accrued and arisen in Cochin. Such a provision works hardship in certain cases. It is therefore considered necessary to provide that in the case of businesses of which all the operations are not carried out in Cochin, the profits and gains in Cochin shall be only as are reasonably attributable to the operations carried out in Cochin. The other amendments in the Bill seek to supply certain omissions and also to make the provisions of our Act correspond to the provisions of the British Act.

APPENDIX V

The Cochin Excess Profits Tax Act (Amendment) Bill

Whereas it is expedient further to amend the Excess Profits Tax Act, II of 1117, for the purposes hereinafter appearing;

It is hereby enacted as follows:—

1. (1) This Act may be called the Cochin Excess Profits Tax (Amendment) Act.....of 1118.

(2) It shall be deemed to have come into force on the 1st day of Chingam 1118.

2. In section 5 of the Cochin Excess Profits Tax Act, II of 1117, hereinafter referred to as the Act, after the second proviso, the following proviso shall be added, namely.—

"Provided further that this Act shall not apply to any business the whole of the profits of which accrue or arise in British India or an Indian State other than Cochin; and where the profits of a part of a business accrue or arise in British India or an Indian State other than Cochin, such part shall, for the purpose of this provision, be deemed to be a separate business the whole of the profits of which accrue or arise in British India or an Indian State other than Cochin, and the other part of the business shall, for all the purposes of this Act, be deemed to be a separate business".

3. After section 28 of the Act, the following shall be added as section 29.

"Government may, by notification in the Cochin Government Gazette, make an exemption, reduction in rate or other modification in respect of excess profits tax in favour of any business or in regard to the whole or any part of the income of any person".

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4. In rule 7 of schedule II to the Act for the word "proviso" the words "second or third proviso" shall be substituted.

Statement of Objects and Reasons

It is considered necessary to exempt from Excess Profits Tax, profits that have accrued or arisen in British India or an Indian State. For the purpose of the smooth working of the reciprocal arrangement for relief against double taxation, such a provision is essential. In the British Indian Act a similar provision has been made.

The Income-tax Act contains a provision for Government to grant exemption in respect of income-tax. A similar provision is also considered necessary in the case of the Excess Profits Tax Act.

Hence the Bill.

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